

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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M & R CAPITAL MANAGEMENT, INC.,

Plaintiff,

19 Civ. 4821(LAP)

v.

THE CURCHIN GROUP, LLC,  
ROBERT C. FOURATT, CPA  
and RICHARD T. DIVER,

Defendants.  
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**DECLARATION OF JOSEPH E. GASPERETTI  
IN RESPONSE TO ORDER TO SHOW CAUSE**

1. Pursuant to 28 U.S.C. § 1746 I declare under penalty of perjury that the following is true and correct.

2. I am a member of the Bar of this Court and am the attorney for the plaintiff M & R Capital Management, Inc. ("M & R"). I make this declaration in response to the Court's order to Show Cause of December 23, 2019 "why the case should not be dismissed for lack of jurisdiction because plaintiff has not alleged the citizenship of every member of the Defendant LLC." (ECF

No. 51)

2. The case should not be dismissed because every member of the defendant The Curchin Group, LLC is a citizen of the State of New Jersey. Annexed hereto as Exhibit A is a Business Entity Status Report issued today by the New Jersey Office the Secretary of State which identifies Curchin's four members as of May 15, 2019 and sets forth their addresses as follows:

(1) Kaval, Carolyn

1504, Tilton Corner Road, Wall, , ,

(2) Conover, Lynn

5 Merkel Drive, Middletown, , ,

(3) Pfister, Peter

14 Hazelwood Court, Howell, , ,

(4) Fouratt, Robert

9 Wesley Court, Asbury Park, , ,

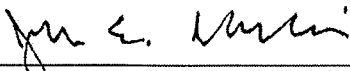
3. Internet search of these addresses reveals that they are all located in the State of New Jersey.

4. In addition, I note that paragraph 12 of the Complaint alleges that Curchin is a citizen of the


State of New Jersey, where it has its place of business. The defendant's Answer admits this allegation.

5. I am mindful that the parties cannot by pleadings or otherwise manufacture federal subject matter jurisdiction. Therefore, if the Court so Orders, M & R hereby requests permission to amend paragraph 12 of the Complaint to specifically allege that Curchin's members are citizens of the State of New Jersey.

Dated: New York, New York  
December 24, 2019

  
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Joseph E. Gasperetti (JG-2120)  
2300 Fifth Avenue  
Rm. 12D  
New York, New York 10037

SO ORDERED.

  
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Loretta A. Preska  
Senior U.S. District Judge

December 26, 2019